

United States
Circuit Court of Appeals

For the Ninth Circuit

6

J. AL. PATTISON

Plaintiff in Error,

vs.

UNITED STATES OF AMERICA,

Defendant in Error.

Transcript of Record

Upon Writ of Error to the District Court of the
United States for the District of Oregon.

FILED

AUG 22 1924

No. _____

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NAMES AND ADDRESSES OF ATTORNEYS OF RECORD

MR. ALFRED P. DOBSON, Gasco Bldg., Portland, Oregon,

MR. JOHN J. BECKMAN, Yeon Bldg., Portland, Oregon,

Attorneys for Plaintiff in Error.

MR. JOHN S. COKE, United States Attorney,

MR. J. O. STEARNS, JR.,

Assistant United States Attorney, Portland, Oregon,

Attorneys for Defendant in Error.

*In the District Court of the United States for the
District of Oregon*

UNITED STATES OF AMERICA,

Plaintiff,

vs.

J. AL. PATTISON,

Defendant.

CITATION ON WRIT OF ERROR

United States of America,

District of Oregon—ss.

To the United States of America and to John S. Coke,

United States Attorney for the District of Oregon, GREETING:

You are hereby cited to admonish and be and appear before the United States Circuit Court of Appeals for the Ninth Circuit at San Francisco, Cali-

fornia, within thirty days from the date hereof pursuant to a writ of error filed in the clerk's office for the District Court of the United States for the District of Oregon, wherein J. Al Pattison is plaintiff in error and you are defendant in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Given under my hand at Portland in said District this 21st day of April, 1924.

R. S. BEAN,
Judge.

Due service of the within citation accepted this 21st day of April, 1924.

JOHN S. COKE,
United States Attorney for Oregon.

(Endorsed) United States District Court, District of Oregon.

Filed April 21, 1924. G. H. Marsh, Clerk.

*In the District Court of the United States for the
District of Oregon*

J. AL. PATTISON,
Plaintiff in Error,

vs.

UNITED STATES OF AMERICA,
Defendant in Error.

*In the District Court of the United States for the
District of Oregon*

March Term, 1919

BE IT REMEMBERED, That on the 21st day of April, 1924, there was duly filed in the District Court of the United States for the District of Oregon, a writ of error, in words and figures as follows, to-wit:

*In the United States Circuit Court of Appeals for the
Ninth Circuit.*

J. AL PATTISON,

Plaintiff in Error,

vs.

UNITED STATES OF AMERICA,

Defendant in Error.

WRIT OF ERROR

The United States of America—ss.

The President of the United States of America.

To the Judge of the District Court of the United States for the District of Oregon:

GREETING:

Because in the records and proceedings, as also in the rendition of the judgment of a plea which is in the District Court before the Honorable Robert S. Bean, one of you, between United States of America, plaintiff and defendant in error, and J. Al Pattison,

defendant and plaintiff in error, a manifest error hath happened to the great damage of the said plaintiff in error, as by complaint doth appear; and we, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid, and, in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the United States Circuit Court of Appeals for the Ninth Circuit, together with this writ, so that you have the same at San Francisco, California, within thirty days from the date hereof, in the said Circuit Court of Appeals to be then and there held; that the record and proceedings aforesaid, being then and there inspected, the said Circuit Court of Appeals may cause further to be done therein to correct that error, what of right and according to the laws and customs of the United States of America should be done.

WITNESS the HONORABLE WILLIAM HOWARD TAFT, Chief Justice of the United States, this 21st day of April, 1924.

(Seal) G. H. MARSH,

Clerk of the District Court of the United States
for the District of Oregon.

By F. L. BUCK, Chief Deputy.

(Endorsed): Filed April 21, 1924, G. H. Marsh,
Clerk United States District Court, District of Oregon,
by F. L. Buck, Chief Deputy Clerk.

*In the District Court of the United States for the
District of Oregon*

March Term, 1919

BE IT REMEMBERED, That on the 5th day of May, 1919, there was duly filed in the District Court of the United States for the District of Oregon, an indictment in words and figures as follows, to-wit:

*In the United States Circuit Court of Appeals for
Ninth Circuit*

J. AL. PATTISON,

Plaintiff in Error,

vs.

UNITED STATES OF AMERICA,

Defendant in Error.

INDICTMENT FOR VIOLATION

**Of Section 5209, Revised Statutes as Amended by
the Act of September 26, 1918**

United States of America,
District of Oregon—ss.

The Grand Jurors of the United States of America, for the District of Oregon, duly impaneled, sworn and charged to inquire within and for said District, upon their oaths and affirmations, do find, charge, allege and present:

COUNT ONE:

That during all of the times mentioned in this indictment The First National Bank of Linnton was, and now is, a corporation and banking association organized, incorporated and existing under and pursuant to the laws of the United States of America and was a member bank in the Federal Reserve System as defined by the Act of Congress approved December twenty-third, nineteen hundred and thirteen, known as the Federal Reserve Act, and was transacting business as such association and member bank at Portland, in the State and District of Oregon; that during all of said times, and particularly on the 13th day of December, 1918, Jerome S. Mann, a defendant above named, was a duly elected, qualified, and acting director and duly appointed, constituted, and acting officer, to-wit: cashier, of said association and member bank; that on, to-wit: the 13th day of December, 1918, at Portland, in the State and District of Oregon, and within the jurisdiction of this Court, said defendant, Jerome S. Mann, without the knowledge and consent of said association and member bank, and with the intent and purpose on the part of him, the said defendant, to injure and defraud said association and member bank and various and sundry persons, firms, and corporations then and there having money, funds and credits on deposit with said association and member bank, to the Grand Jurors unknown, did wilfully, knowingly, and unlawfully misapply money, and credits of said association and

member bank and convert the same to the use and benefit of one J. Al Pattison; that is to say: that then and there, at said times and place, one J. Al Pattison did present for deposit at said association and member bank, a certain instrument purporting to be a trade acceptance, dated November 28, 1918., payable February 27, 1919, for the sum of \$1,274.16, drawn on Cooper & Crosfield, in favor of J. Al Pattison Lumber Co., Inc., accepted on the face thereof by Cooper & Crosfield, by C. V. Cooper, manager, and signed by J. Al Pattison Lumber Co., Inc., by J. Al Pattison, and attached to said purported trade acceptance was a purported invoice of lumber of the value of \$1,274.16, sold to said Cooper & Crosfield by said J. Al Pattison Lumber Co., Inc., and also a purported memorandum of a bill of lading purporting to show that said lumber of said value had been received for shipment from said J. Al Pattison Lumber Co., Inc., at Marion, Oregon, consigned to Garretson Lumber Co., at Boston, Massachusetts, over the lines and routes of the Southern Pacific Railway and Boston & Maine Railway, common carriers and connecting carriers to the Grand Jurors unknown, in car initialed CM&STP, and numbered 24478; that at said time and place, said defendant, Jerome S. Mann, then and there being and acting in his said capacity as director and cashier of said association and member bank and without the knowledge and consent of said association and member bank, and with the intent and purpose on the part of him, the said Jerome S. Mann, to injure and defraud said association and member bank and various and sundry persons, firms and corporations, as aforesaid,

did receive said purported trade acceptance with said purported invoice and said purported memorandum of bill of lading attached as aforesaid, and did deposit the same to the credit of said J. Al Pattison Lumber Co., Inc., and did credit said J. Al Pattison Lumber Co., Inc., with the sum of \$1274.16, less 4% discount, on the books of said association and member bank; that thereafter said J. Al Pattison withdrew said sum of \$1274.16, less 4% discount from the money, funds and credits of said association and member bank by means of checks drawn against said sum so credited as aforesaid, the exact dates and amounts of said checks being to the Grand Jurors unknown; that at said time that said purported trade acceptance with said purported invoice and purported memorandum of bill of lading was presented, received, deposited, and credited as aforesaid, said Cooper & Crosfield was not indebted to said J. Al Pattison Lumber Co., Inc., in the sum of \$1274.16, or any other sum, or any sum whatsoever, and said J. Al Pattison Lumber Co., Inc., had not sold to said Cooper & Crosfield lumber of said value as set forth in said purported invoice and lumber of said value had not been received for shipment from said J. Al Pattison Lumber Co., Inc., as set forth in said purported memorandum of bill of lading, and said purported trade acceptance was not of the value of the sum of \$1274.16, less 4% discount, or of any other sum whatsoever, but said purported invoice and purported memorandum of bill of lading were false, fraudulent, fictitious, and untrue, and said trade acceptance was of no value whatsoever, and said defendant, Jerome S. Mann, then and there at said time and place, knew said purported invoice and said purported memorandum of bill of lading to

be false, fraudulent, fictitious, and untrue, and said purported memorandum of bill of lading to be false, fraudulent, fictitious, and untrue, and said trade acceptance to be of no value whatsoever when the same was and were presented, received, deposited, and credited as aforesaid, contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

COUNT NINE:

That during all of the times mentioned in this indictment, The First National Bank of Linnton, was, and now is, a corporation and banking association organized, incorporated and existing under and pursuant to the laws of the United States of America, and was a member bank in the Federal Reserve System as defined by the Act of Congress approved December twenty-third, nineteen hundred and thirteen, known as the Federal Reserve Act, and was transacting business as such association and member bank, at Portland, in the State and District of Oregon; that during all of said times and particularly on the 13th day of December, 1918, one Jerome S. Mann was duly elected, qualified, and acting director and a duly appointed, constituted, and acting officer, to-wit: cashier, of said banking association and member bank; that on, to-wit: the 13th day of December, 1918, at Portland, in the State and District of Oregon, and within the jurisdiction of this Court, J. Al Pattison, the defendant above named, with the intent

and purpose on the part of him, the said defendant, to injure and defraud said association and member bank and various and sundry persons, firms, and corporations then and there having money, funds and credits on deposit with said association and member bank, to the Grand Jurors unknown, did knowingly, wilfully, and unlawfully aid and abet said Jerome S. Mann in wilfully misapplying money, funds and credits of said association and member bank, that is to say: that then and there at said time and place, said defendant, J. Al Pattison, did present for deposit at said association and member bank, a certain instrument purporting to be a trade acceptance, dated November 28, 1918, payable February 27, 1919, for the sum of \$1274.16, drawn on Copper & Crosfield. in favor of J. Al Pattison Lumber Co., Inc., accepted on the face thereof by Cooper & Crosfield, by C. V. Cooper, Manager, and signed J. Al Pattison Lumber Co., Inc., by J. Al Pattison and attached to said purported trade acceptance was a purported invoice of lumber of the value of \$1274.16, sold to said Cooper & Crosfield by said J. Al Pattison Lumber Co., Inc., and also a purported memorandum of a bill of lading purporting to show that said lumber of said value had been received for shipment from said J. Al Pattison Lumber Co., Inc., at Marion, Oregon, consigned to Garretson Lumber Co., at Boston, Massachusetts, over the lines and routes of the Southern Pacific Company and Boston & Maine Railway, common carriers, and connecting carriers to the Grand Jurors unknown, in car initialed C. M. & S. T. P., and numbered 24478; that at said time and place, said Jerome

S. Mann, then and there being and acting in his said capacity as director and cashier of said association and member bank, and without the knowledge and consent of said association and member bank, did receive said purported trade acceptance with said purported invoice and said purported memorandum of bill of lading attached as aforesaid, and did deposit the same to the credit of said J. Al Pattison Lumber Co., Inc., and did credit said J. Al Pattison Lumber Co., Inc., with the sum of \$1274.16, less 4% discount, on the books of said association and member bank; that thereafter said defendant, J. Al Pattison withdrew said sum of \$1274.16, less 4% discount, from the money, funds and credits, of said corporation and member bank by means of checks drawn against said sum so credited as aforesaid, the exact dates and amounts of said checks being to the Grand Jurors unknown; that at said time that said purported trade acceptance with said purported invoice and purported memorandum of bill of lading was presented, received, deposited, and credited as aforesaid, said Cooper & Crosfield was not indebted to said J. Al Pattison Lumber Co., Inc., in the sum of \$1274.16, or any other sum, or any sum whatsoever, and said J. Al Pattison Lumber Co., Inc., had not sold to said Cooper & Crosfield lumber of said value as set forth in said purported invoice and lumber of said value had not been received for shipment from said J. Al Pattison Lumber Co., Inc., as set forth in said purported memorandum of bill of lading, and said purported trade acceptance was not of the value of the sum of \$1274.16, or any other sum, or any sum whatsoever,

but said purported invoice and purported memorandum of bill of lading were false, fraudulent, fictitious, and untrue, and said trade acceptance was of no value whatsoever, and said Jerome S. Mann and said defendant J. Al Pattison, then and there at said time and place knew said purported invoice and said purported memorandum of bill of lading to be false, fraudulent, fictitious, and untrue, and said purported trade acceptance to be of no value whatsoever when the same was and were presented, received, deposited, and credited as aforesaid, contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

Dated at Portland, Oregon, this 5th day of May, 1919.

A TRUE BILL.

WALTER GADSBY,

Foreman, United States Grand Jury.

JOHN C. VEATCH,

Assistant United States Attorney.

(Endorsed) Filed May 5, 1919, in open Court.
G. H. Marsh, Clerk.

RECORD OF PLEA OF GUILTY

AND AFTERWARDS, to-wit, on Monday, the 7th day of July, 1919, the same being the first judicial day of the regular July term of said Court; present the HONORABLE ROBERT S. BEAN, United

States District Judge, presiding, the following proceedings were had in said cause, to-wit:

Now at this day come the plaintiff by Mr. Bert E. Haney, United States Attorney, and Mr. John C. Veatch, Assistant United States Attorney and the defendant J. Al Pattison in his own proper person and by Mr. Alfred P. Dobson, of counsel

Whereupon for plea to the indictment herein . . . the defendant J. Al Pattison for himself says he is guilty as charged in said indictment.

RECORD OF VERDICT OF ACQUITTAL OF JEROME S. MANN

AND AFTERWARDS, to-wit, on Saturday, the 12th day off July, 1919, the same being the 6th judicial day of the regular July term of said Court; present the HONORABLE ROBERT S. BEAN, United States District Judge, presiding, the following proceedings were had in said cause, to-wit:

Now at this day come the plaintiff by Mr. Bert E. Haney, United States Attorney, and Mr. John C. Veatch, Assistant United States Attorney, and the defendant Jerome S. Mann in his own proper person and by Mr. Wallace McCamant and Mr. Albert B. Ridgway, of counsel. Whereupon the jury impanelled herein come into Court, answer to their names, and in accordance with the consent and agreement of the parties hereto, and the order of the Court return to the Court their duly sealed verdict herein, viz:

“We, the jury duly empanelled and sworn to try the above entitled cause, do find the defendant, Jerome S. Mann, not guilty as charged in the indictment.

Dated at Portland, Oregon, this 11th day of July, 1919.

J. A. THORNBURGH,

Foreman.”

Which verdict is received by the Court and ordered to be filed.

RECORD OF SENTENCE

AND AFTERWARDS, to-wit, on Friday, the 31st day of October, 1919, the same being the 101st judicial day of the regular July term of said Court; present the HONORABLE ROBERT S. BEAN, United States District Judge, presiding, the following proceedings were had in said cause, to-wit:

Now at this day come the plaintiff by Mr. John C. Veatch, Assistant United States Attorney, and the defendant J. Al Pattison in his own proper person; whereupon this being the day set for the sentence of the said defendant J. Al Pattison upon the plea of guilty heretofore entered to the indictment herein,

It is adjudged that said defendant do pay a fine of \$500.00 and that he stand committed to the County Jail of Multnomah County, Oregon, until said fine be paid or until he be discharged according to law, and that said defendant be and he is hereby allowed thirty days from this date within which to pay said fine.

RECORD OF EXTENSION OF TIME TO PAY FINE

AND AFTERWARDS, to-wit, on Monday, the 1st day of December, 1919, the same being the 24th judicial day of the regular November term of said Court; present the HONORABLE ROBERT S. BEAN, United States District Judge, presiding, the following proceedings were had in said cause, to-wit:

Now at this day come the plaintiff by Mr. John C. Veatch, Assistant United States Attorney, and the defendant above named by Mr. Alfred P. Dobson, of counsel. Whereupon on motion of said defendant,

It is ordered that said defendant, J. Al Pattison, be and he is hereby allowed thirty days further time within which to pay the fine heretofore imposed upon him herein by the Court.

RECORD OF ORDER FOR COMMITMENT

AND AFTERWARDS, to-wit, on Thursday, the 2nd day of August, 1923, the same being the 28th judicial day of the regular July term of said Court; present the HONORABLE CHARLES E. WOLVERTON, United States District Judge, presiding, the following proceedings were had in said cause, to-wit:

Now at this day comes the plaintiff by Mr. Joseph O. Stearns, Jr., Assistant United States Attorney, and moves the Court for an order for a bench warrant to issue herein for the arrest of the above named defendant, J. Al Pattison; and it appearing to the Court that on October 31, 1919, the defendant was

duly convicted of the offense charged in the indictment herein, and was sentenced by the Court to pay a fine of \$500.00 and to stand committed until said fine was paid; and it further appearing that service of said commitment was by order of Court staid, and that the time of said stay has long since expired and that said fine has not been paid.

It is ordered that a bench warrant issue for the arrest of said defendant, and that he be brought before this Court forthwith to show cause why the fine should not be paid or he should not be committed in accordance with the judgment of this Court, and

It is further ordered that the said defendant be admitted to bail in the sum of \$750.00 to answer to the Court in accordance with this order.

(Whereupon a commitment was duly issued pursuant to the above order, and was returned "not found" on August 8, 1923, by the United States Marshal for said District.)

AND AFTERTWARDS, to-wit, on Friday, the 7th day of April, 1924, the same being the 31st judicial day of the regular March term of said Court; present the HONORABLE ROBERT S. BEAN, United States District Judge, presiding, the following proceedings were had in said cause, to-wit:

This cause was heard by the Court upon motion filed herein by the plaintiff for a commitment to issue for the above named defendant J. Al Pattison and upon the oral motion of defendant in open Court for the remission of the penalty imposed by the

Court herein upon said defendant, plaintiff appearing by Mr. Joseph O. Stearns, Jr., Assistant United States Attorney, and defendant J. Al Pattison in person and by Mr. A. P. Dobson of counsel, and the Court having heard the arguments of counsel and being fully advised in the premises.

It is ordered, that said motion for remission of penalty be and the same is hereby denied, and that the said motion of plaintiff for commitment to issue be and the same is hereby allowed and that commitment issue forthwith for the said defendant in accordance with the judgment of the Court heretofore entered herein.

AND AFTERWARDS, to-wit, on the 7th day of April, 1924, there was issued out of said Court, a commitment, in words and figures, as follows, to-wit:

ORDER OF COMMITMENT

*In the District Court of the United States for the
District of Oregon*

UNITED STATES OF AMERICA,

vs.

J. AL PATTISON.

No. C8428

For Violation of Section 5209 R. S.

The United States of America,

District of Oregon—ss.

The President of the United States of America.

To the Marshal of the District of Oregon, or to his

Deputy; to the Keeper of either of the Jails in our said District; to the Warden of the United States Penitentiary, McNeil Island, Wash.—GREETING:

WHEREAS, at the March, 1919, term of the above-entitled Court, J. Al Pattison was duly convicted of the crime of aiding and abetting in the misapplication of funds by a National Bank official, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America, for which offense he hath this day been sentenced by our said Court to pay a fine of Five Hundred and no/100 Dollars (\$500.00) and to be imprisoned in the County Jail of Multnomah County, Oregon, and to stand committed until this sentence be performed.

NOW, THIS IS TO COMMAND YOU, the said Marshal or Deputy, to take and keep and safely deliver the said Defendant, J. Al Pattison, into the custody of the Keeper or Warden in charge of said prison, forthwith.

AND THIS TO COMMAND YOU, the said Keeper or Warden in charge of the said prison, to receive from the said Marshal or Deputy the said Defendant J. Al Pattison, convicted and sentenced as aforesaid and him keep and imprison in accordance with said sentence, or until he be otherwise discharged by law. Hereof fail not at your peril.

WITNESS the HONORABLE CHARLES E.

WOLVERTON and the HONORABLE ROBERT S. BEAN, Judges of our said Court, and the seal thereof affixed at Portland, in said District, this 7th day of April, 1924.

(Seal of Court) G. H. MARSH,
Clerk.
F. M. BROWN,
Deputy Clerk.

*In the District Court of the United States for the
District of Oregon*

UNITED STATES OF AMERICA,
Plaintiff,

vs.

J. AL. PATTISON,
Defendant.

PETITION FOR WRIT OF ERROR

To the Honorable Charles E. Wolverton and Robert S. Bean, Judges of the above entitled Court:

Comes now J. Al Pattison, defendant herein, by his attorneys, Alfred P. Dobson and John J. Beckman, and respectfully shows:

That on October 31, 1919, the above entitled Court imposed upon your petitioner a fine of \$500.00 in the above entitled cause and adjudged that he stand committed to the County Jail of Multnomah County, Oregon, until said fine be paid and he be discharged according to law and that subsequently, on April 7, 1924, the above entitled Court upon motion of the

plaintiff herein, entered an order that a commitment be issued upon said judgment and overrule the motion of the said defendant that the said commitment be not issued and that the fine thereto imposed be remitted and set aside, and the said Court thereupon issued said commitment.

Your petitioners feeling themselves agreed by the said judgment and the said order issuing said commitment and denying said defendant's motion as aforesaid and by the issuance of said commitment certain errors were committed in connection therewith to the prejudice of this defendant, all of which will more fully appear from the bill of exceptions and the assignment of errors filed with this petition, and this defendant doth herewith petition the Honorable Court for an order allowing him to prosecute a writ of error to the United States Circuit Court of Appeals for the Ninth Circuit under the rules and laws of the United States in such cases made and provided.

WHEREFORE, this defendant prays that a writ of error may issue in his behalf out of the United States Circuit Court of Appeals for the Ninth Circuit for the correction of the errors so complained of and that an order be made approving the bond of your petitioner and staying all further proceedings until determination of such writ of error by said Circuit Court of Appeals, and that a transcript of the records, proceedings and papers in this cause duly authenticated may be sent to the United States Cir-

cuit Court of Appeals for the Ninth Circuit.

J. AL PATTISON,

Defendant.

JOHN J. BECKMAN,

ALFRED P. DOBSON,

Attorneys for Defendant.

United States of America,

District of Oregon—ss.

Due and legal service of the foregoing petition is hereby accepted at Portland, Oregon, this 21st day of April, 1924.

JOHN S. COKE,

United States Attorney for Oregon.

(Endorsed): United States District Court, District of Oregon. Filed April 21, 1924. G. H. Marsh, Clerk.

*In the District Court of the United States for the
District of Oregon*

UNITED STATES OF AMERICA,

Plaintiff,

vs.

J. AL PATTISON,

Defendant.

ASSIGNMENT OF ERRORS

J. Al Pattison, the defendant in the above entitled action and plaintiff in error herein, having petitioned for an order from the above entitled Court permitting

him to procure a writ of error to this Court directed from the United States Circuit Court of Appeals for the Ninth Circuit from the judgment, sentence, order of commitment and commitment made and entered in said cause against the said plaintiff in error, and petitioner herein now makes and files with said petition the following assignment of errors herein upon which he will rely for a reversal of the said judgment, sentence, order and commitment upon the said writ and which said errors, and each and every of them, are to the great detriment, injury and prejudice of the said plaintiff in error and in violation of the rights conferred upon him by law; and plaintiff in error says that in the record and proceedings of the above entitled cause upon the hearing and determination thereof in the District Court of the United States for the District of Oregon there are manifest errors in this, to-wit:

1. That the Court erred in entering a judgment of guilty and sentencing the said defendant to pay a fine of \$500.00 and to stand committed to the County Jail of Multnomah County, Oregon, until said fine be paid or until he be discharged according to law.

2. That the Court erred in making and entering the order of date April 7, 1924, directing that a commitment issue forthwith for the defendant, J. Al Pattison, in accordance with the judgment of the Court theretofore entered in said cause.

3. That the Court erred in overruling the motion of the defendant, J. Al Pattison, that the said com-

mitment be not issued and that the fine of \$500.00 theretofore entered be remitted and set aside.

4. That the Court erred in issuing the commitment for the said defendant of date April 7, 1924.

WHEREFORE, on account of the errors above assigned the said commitment against the said defendant and the order committing him ought not to have been made, entered or issued and the said defendant should have been allowed to go hence without day, now the said defendant prays that the sentence to pay the fine of \$500.00 and the order of commitment and commitment aforesaid of said Court should be reversed and set aside and that this cause be remanded to the said District Court and such directions be given that the above errors may be corrected and law and justice done in the matter.

Dated this 21st day of April, 1924.

ALFRED P. DOBSON,
JOHN J. BECKMAN,
Attorneys for Defendant.

Service acknowledged this 21st day of April, 1924.

JOHN S. COKE,
United States Attorney.

(Endorsed): United States District Court, District of Oregon. Filed April 21, 1924. G. H. Marsh, Clerk.

*In the District Court of the United States for the
District of Oregon*

UNITED STATES OF AMERICA,
Plaintiff,
vs.
J. AL PATTISON,
Defendant.

BILL OF EXCEPTIONS

BE IT REMEMBERED, That on July 7, 1919, Jerome Mann, one of the defendants named in the indictment in the above entitled cause, entered a plea of not guilty in open court and thereupon a jury was empaneled and sworn to try the said Jerome Mann on said indictment. That said trial thereupon proceeded and during the course of same the defendant, J. Al Pattison, was called as a witness for the United States and upon being sworn gave testimony on behalf of the United States.

That on March 24, 1924, the United States of America by J. O. Stearns, Jr., Assistant United States Attorney for Oregon, appeared in open court and orally moved that the Court make an order directing that a commitment issue forthwith for the arrest of said defendant, J. Al Pattison, and his commitment in the County Jail of Multnomah County, Oregon, until his fine be paid according to the judgment of the Court in the above entitled cause of date October 31, 1919. That at said time in said Court the

said J. Al Pattison appeared by Alfred P. Dobson, Esq., his attorney, and opposed said motion and said defendant by his said attorney orally moved the Court that the said commitment be not issued and that the judgment of the Court of date October 31, 1919, wherein the Court imposed a fine of \$500.00 upon said defendant be set aside and that the said fine be remitted upon the ground and for the reason that it appeared from the indictment in said cause that the said defendant, Jerome Mann, was charged with violation of Section 5209 U. S. R. S. as amended and the said J. Al Pattison was only charged in said indictment with being an accessory to the said Jerome Mann by aiding and abetting the said Jerome Mann in the commission of the particular crimes charged in said indictment to have been committed by him, the said Jerome Mann, and that a jury having returned a verdict of not guilty upon the separate trial of Jerome Mann, the said J. Al Pattison could not be guilty of being an accessory and the plea theretofore made was a nullity and that the fine imposed should be remitted and set aside. The Court thereupon heard the argument of respective counsel upon said motions and took the same under advisement.

And now because the foregoing matters and things are not of record in this cause I, R. S. Bean, Judge of the District Court of the United States for the District of Oregon, and the judge trying the above entitled action in said Court, hereby certify that the foregoing bill of exceptions truly states all the pro-

ceedings not of record had in the above entitled Court in the above entitled cause with reference to the sentence, order of commitment and commitment of the defendant, J. Al Pattison, which order and commitment are of record in this cause.

Within the time allowed by the Court the defendant, J. Al Pattison, presented this his bill of exceptions, which is hereby allowed.

Dated this 21st day of April, 1924.

R. S. BEAN,
District Judge.

Due service of the within Bill of Exceptions is hereby accepted this 21st day of April, 1924.

J. D. STEARNS, JR.,
Asst. United States Attorney for Oregon.

(Endorsed): United States District Court, District of Oregon.

Filed April 21, 1924. C. H. Marsh, Clerk.

*In the District Court of the United States for the
District of Oregon*

UNITED STATES OF AMERICA,
Plaintiff,

vs.

J. AL PATTISON,

Defendant.

ORDER ALLOWING WRIT OF ERROR

Now at this day comes the defendant, J. Al Pat-tison, in the above entitled cause by Alfred P. Dobson, Esq., and John J. Beckman, Esq., his counsel, and present to the Court their petition praying for the allowance of a writ of error to be issued out of the United States Circuit Court of Appeals for the Ninth Circuit, to review the judgment and orders of this Court entered in said cause and move the Court for an order allowing said petition:

On consideration whereof it is ORDERED that the writ of error issue as prayed for in said petition.

It is further ORDERED that all proceedings in the above entitled District Court be stayed, superseded and suspended until the final disposition of the writ of error in the aforesaid United States Circuit Court of Appeals for the Ninth Circuit upon said defendant filing an undertaking in the sum of \$750, to be approved by the Court.

Dated at Portland, Oregon, this 21st day of April, 1924.

R. S. BEAN,
Judge.

(Endorsed): United States District Court, District of Oregon.

Filed April 21, 1924. G. H. Marsh, Clerk.

*In the District Court of the United States for the
District of Oregon*

UNITED STATES OF AMERICA,
Plaintiff,
vs.
J. AL PATTISON,
Defendant.

BOND

KNOW ALL MEN BY THESE PRESENTS, that we, J. Al Pattison, as principal and Minnie L. Wade and George W. Pattison, as sureties, are held and firmly bound unto the United States of America in the penal sum of Seven Hundred Fifty and 00/100 Dollars (\$750.00) to be paid to the United States of America for the payment of which well and truly to be made we bind ourselves, and each of us, our heirs, executors, administrators, successors and assigns, forever firmly by these presents.

Sealed with our seals and dated and signed this 21st day of April, 1924.

WHEREAS, on the 31st day of October, 1919, in the District Court of the United States for the District of Oregon in a certain case therein pending wherein the United States of America was plaintiff and the said J. Al Pattison was defendant and judgment was rendered against the said defendant wherein and whereby the said defendant was sentenced to pay to the said United States of America a fine in the sum of \$500.00 or in lieu of the payment of said fine to be imprisoned in the County Jail at Multnomah

County at Portland, Oregon, until such fine was paid, and thereupon on April 7, 1924, and in said Court said Court made an order of commitment whereby the said defendant was committed to the County Jail in lieu of the payment of said fine and the said defendant has prayed for and obtained a writ of error from the United States Circuit Court of Appeals for the Ninth Circuit to review the said judgment, sentence and commitment in the aforesaid action and a citation directing the United States to be and appear in the said United States Court of Appeals for the Ninth Circuit at San Francisco, California, 30 days from and after the date of said citation has issued, which citation has been duly served.

Now the condition of this obligation is such that if the said J. Al Pattison shall appear either in person or by attorney in the said Circuit Court of Appeals for the Ninth Circuit on such day or days as may be appointed for the hearing of said cause in said Court and prosecute this writ of error and abide by the orders made by the said United States Circuit Court of appeals and shall surrender himself in execution as said Court may direct if the judgment and sentence against him shall be affirmed, then this obligation shall be void; otherwise to be and remain in full force and effect.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 21st day of April, 1924.

J. AL PATTISON, (Seal)
Principal.

MINNIE L. WADE, (Seal)
Surety.
GEORGE W. PATTISON, (Seal)
Surety.

United States of America,
District of Oregon—ss.
County of Multnomah.

I, Minnie L. Wade, residing at 2153 E. Ankeny Street, Portland, Oregon, being first duly sworn, say: That I am a resident and free-holder in the State of Oregon and that I am worth the sum of One Thousand (\$1000.00) Dollars over and above all my just debts and liabilities and exclusive of property exempt from execution.

MINNIE L. WADE.

Subscribed and sworn to before me this 21st day of April, 1924.

JOHN J. BECKMAN,
(Notarial Seal) Notary Public for Oregon.
My commission expires February 25, 1925.

United States of America,
District of Oregon—ss.
County of Multnomah.

I, George W. Pattison, residing at 1701 East Seventeenth Street, Portland, Oregon, being first duly sworn, say: That I am a resident and free-holder in the State of Oregon and that I am worth the sum of One Thousand (\$1000.00) Dollars over and above

all my just debts and liabilities and exclusive of property exempt from execution.

GEORGE W. PATTISON.

Subscribed and sworn to before me this 21st day of April, 1924.

JOHN J. BECKMAN,

(Notarial Seal)

Notary Public for Oregon.

My Commission Expires February 25, 1925.

The above bond approved April 21st, 1924.

R. S. BEAN,

United States District Judge.

(Endorsed): United States District Court, District of Oregon.

Filed April 21, 1924. G. H. Marsh, Clerk.

*In the District Court of the United States for the
District of Oregon*

UNITED STATES OF AMERICA,

vs.

J. AL PATTISON,

Defendant.

STIPULATION AS TO RECORD

It is hereby stipulated by and between the United States of America by Joseph O. Stearns, Jr., Assistant United States Attorney for the District of Oregon, and J. Al Pattison, the defendant, by John J. Beckman, of counsel; that the following documents, papers and records in the above entitled cause shall

be included in the transcript of record in the said cause and that the same are all the necessary documents, papers and records to be considered in reviewing the said case on writ of error, to-wit: Indictment, citation, writ of error, petition for writ, order allowing writ, bill of exceptions, assignments of error, bond, pleas of guilty, record of acquittal of Jerome S. Mann, record of sentence, record of extension of time to pay fine, record of order for commitment, commitment, this stipulation.

It is further hereby stipulated between the respective parties hereto that said indictment consists of 16 counts and that counts 2 to 7 both inclusive thereof, charge defendant, Jerome S. Mann, with offenses similar to the crime charged in count 1 herein set out in full and that said Jerome S. Mann was in one trial acquitted as to each and all of said counts, and that counts 10 to 16 both inclusive, of said indictment, charged defendant, J. Al Pattison, with offenses similar to that charged against him in count 9 of said indictment herein set out in full, and that said counts 10 to 16 respectively charged J. Al Pattison with aiding and abetting Jerome S. Mann in the commission of the crimes charged in counts 2 to 8 respectively, and that for the purpose of considering the assignments of error herein set forth said counts 2 to 8 inclusive and 10 to 16 inclusive, may be omitted for the sake of brevity.

It is further hereby stipulated between the respective partes hereto that plaintiff in error has in due time obtained from one of the judges of the United

States District Court and filed herein sundry extensions of time to file this transcript up to August —, 1924.

It is further hereby stipulated between the respective parties hereto that the foregoing printed record now tendered to the Clerk of the above entitled Court for his certificate and filed in the above cause, is a true transcript of the record in said cause and that the said Clerk may certify said transcript to the United States Circuit Court of Appeals for the Ninth Circuit without comparing the same with the original record which is on file herein.

Dated this 9th day of August, 1924.

JOSEPH O. STEARNS, Jr.,
Attorney for Plaintiff.

JOHN J. BECKMAN,
of Attorneys for Defendant.

(Endorsed): Filed August 15, 1924. G. H. Marsh,
Clerk.

*In the District Court of the United States for the
District of Oregon*

UNITED STATES OF AMERICA,
Plaintiff,

vs.

J. A. PATTISON,
Defendant.

United States of America,
District of Oregon—ss.

I, G. H. Marsh, Clerk of the District Court of the United States for the District of Oregon, do hereby certify that the foregoing printed transcript of record on writ of error in the case of J. Al Pattison, plaintiff in error, vs. United States of America, defendant in error, is a true transcript of the record in said cause in said Court. This certificate is made without comparing the said transcript of record with the original record in said cause, pursuant to the stipulation of the parties therein, that this record may be certified to by me to be a true copy, without comparison.

IN TESTIMONY WHEREOF, I have here-
unto set my hand and the seal of said Court in said
District this 15 day of August, 1924.

G. H. Marsh

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Clerk.

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